

EXHIBIT C

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June 19, 2014

VIA ECF FILING

Honorable Judge Kenneth M. Karas
U.S. District Court Judge
The Hon. Charles L. Brieant Jr.
Federal Building & Courthouse
Southern District of New York
300 Quarropas Street
White Plains, New York 10601-4150

Re: Edward J. Reynolds v. LifeWatch, Inc., et al.
Civil Action No.: 14-CV-3575 (KMK)
Our File No.: 170.191

Dear Honorable Judge Karas:

Our law firm represents the plaintiff, Edward J. Reynolds, D.D.S., individually and on behalf of all others similarly situated, in the captioned class action case. This letter is in response to the defendants' letter of June 16th requesting a pre-motion conference.

The first issue that must be addressed is the alleged "recall/refund campaign" that the defendants refer to in their letter. The defendants claim they initiated the "recall/refund campaign" in response to a case filed in Florida by the FTC in January of 2014. Even though the defendants are not named in the FTC case in Florida, the defendants claim that it was the impetus for their "recall/refund campaign". In reality, it appears as though the defendants conjured up the "recall/refund" defense earlier this week. We can make that accusation about the defendants because as of Monday, June 16th, when the defendants filed their letter with the Court, they had not contacted the plaintiff concerning a "recall/refund". Shockingly, their letter suggests quite the contrary.

Our client finally received a letter from the defendant in the mail today, June 19th. It was postmarked June 17th, a day after the defendants filed their letter with the Court. (A copy of the defendants' letter to the plaintiff is attached hereto.) Thus, it is clear that the defendants are simply trying to derail the plaintiff's class action, which should not be allowed.

There are additional issues with, and concerns about, the "recall/refund" defense, including the following:

- 1) First, the defendants cannot unilaterally declare that the class members must accept the relief that the defendants may decide to offer to them. The plaintiff and our law firm represent the class and we seek fair and reasonable compensation for the entire class.

- 2) Second, the defendants cannot unilaterally determine who will be sent their "recall/refund" letters. The scope of the class is to be determined through discovery in the case.
- 3) Third, in light of the hand-written Postal Money Order that was sent to the plaintiff as an offer for a partial refund, it is hard to believe that anyone other than the plaintiff was sent a letter. Are we really to believe that the defendants went to the Post Office and bought thousands of Postal Money Orders and then hand-wrote the contact information for all of consumers on the money orders?
- 4) Fourth, the injunctive relief that the plaintiff seeks has not been addressed. The unlawful practices by the defendants and/or their agents must be stopped so that other consumers are not victims in the future.

As can be seen, the defendants' argument that the Complaint should be dismissed because of their alleged "recall/refund campaign" is without merit and is not factually supported.

The other arguments in the defendants' letter also fail as grounds for dismissal of the Complaint. They are briefly addressed below.

The defendants' argument to dismiss the claims against the individual defendants focuses on piercing the corporate veil but that is not necessary under the New York GBL sections pled. Corporate officers and directors are personally liable for the fraudulent and illegal acts of the corporation if they participated in the conduct or had actual knowledge of it. All of the relief that can be obtained against a corporation can also be obtained from the individuals, including the injunctive relief and restitution.

The defendants' arguments about the class certification issues, including which claims can be applied to a nationwide class, are premature at this time. Those issues are to be decided at the class certification stage, after discovery has been conducted and the issues have been fully briefed. The defendants' argument that Rule 12(f) can be used to strike some of the class allegations is simply incorrect. Rule 12(f) provides for striking of "an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter". None of that applies to the plaintiff's Complaint.

Finally, the defendants' argument that several of the causes of action in the Complaint are not properly pled or are missing necessary elements does not hold up when the Complaint is reviewed. The Complaint contains all of the necessary elements and provides more than sufficient detail about the claims.

We thank Your Honor for your time and consideration.

Respectfully yours,

GAINEY McKENNA & EGGLESTON

Barry J. Gainey

BJG/dxg

cc: All counsel
Via ECF Filing

Enclosure



266 Merrick Road
Lynbrook, NY 11563

June 16, 2014

Edward Reynolds
297 Orangeburg Road
Pearl River, NY 10965

Mr. Reynolds,

Please find enclosed United States postal money order number 21803719443 in the amount of \$244.65. In conjunction with our refund campaign the amount of \$104.85 has been placed back on your credit card ending 9878. The total amount of the refund that you will be receiving is \$349.50.

Very Truly Yours,

Refund Department

UNITED STATES POSTAL SERVICE		POSTAL MONEY ORDER	
Serial Number	Year, Month, Day	Post Office	U.S. Dollars and Cents
21803719443	2014-06-17	115700	\$244.65
Amount		Two hundred forty four dollars & 65c	
Pay to	Edward Reynolds		
Address	297 Orangeburg Rd Pearl River, NY 10915		
Memo	Clock Watch USA 266 Merrick Rd Lynbrook, NY 11563		
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